

Session 13-09, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Venuti at 6:30 p.m. on July 17, 2013 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS HIGHLAND, SONNEBORN, SLONE, STEAD, VENUTI

ABSENT: BOS

STAFF: CITY PLANNER ABBOD  
DEPUTY CITY CLERK JACOBSEN

### **Approval of Agenda**

HIGHLAND/SLONE MOVED TO APPROVE THE AGENDA

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

### **Public Comment**

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

None

### **Reconsideration**

None

### **Adoption of Consent Agenda**

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

A. Approval of Minutes of June 19, 2013 meeting

HIGHLAND/SLONE MOVED TO ADOPT THE CONSENT AGENDA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

### **Presentations**

## Reports

### A. Staff Report PL 13-52, City Planner's Report

City Planner Abboud reviewed his staff report.

There was brief discussion about the road construction plans for the remainder of this year and next year.

## Public Hearings

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

### A. Staff Report PL 13-54, Conditional Fence Permit 744 Ocean Drive Loop

City Planner Abboud reviewed the staff report. He commented that he was unable to get clarification from Public Works as to what the site triangle is for this property.

Donna Rae Faulkner, property owner, explained they built a house on the property and are making an edible garden to sell organic produce from. Because it is organic produce, they need to ensure that no animals get involved in the property. They purchased a 6 foot chain link fence from Sears, and then were advised by Public Works they need a conditional fence permit. The plants are in low tunnels, ready to be uncovered so she hopes they will approve the permit tonight. They sell the veggies locally and attended a DEC workshop on food safety where they learned that you have to keep animals away, and they are part of the organic initiative "Growing Wise". They removed spruce trees for the garden space and if they have to move the garden back, it would take more than half the garden space away. She thought Public Works comments seemed a little hostile, she noted it is two feet below the road, and when coming around the corner or coming out of the driveway it is a super quiet neighborhood with only 5 properties and then it dead ends. The spruce trees they removed were a bigger hindrance than this fence will ever be. With the road two feet above the garden, it doesn't obscure the driveway or the corner for visibility.

Don McNamara, property owner, reviewed the photos in the packet reiterating the garden is two feet below the road and noting a 36 foot house built right on the property line and spruce trees that completely blocks a site triangle on the other side. He noted the very low traffic pattern in the neighborhood. He said they can really use the space and a moose free zone. At their other garden they took the low tunnels down and a rabbit and a porcupine came through and ate all the leaves off their strawberries. He thanked the Commission for their consideration tonight.

Chair Venuti opened the public hearing.

Karin Marks, city resident, commented in support of the conditional fence permit. She buys veggies from the applicants and people constantly want more organic vegetables. To lose any of the land they could be growing vegetables means there are people who won't be able to get them. It would be nice

HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
JULY 17, 2013

for them to have the higher fence to keep animals out and also to put it where they need it to allow as much growth of food as they can.

There were no further comments and the hearing was closed.

The applicant and staff had no rebuttal comments.

Commissioner Sonneborn questioned the language in code regarding fence height and noted if you can see through the fence, it isn't blocking visibility. City Planner Abboud commented that there is some ambiguity in the code relating to fences and visibility clearance, so the Commission needs to decide and express their logic clearly for the record. Ms. Sonneborn commented that there are fences that could block the triangle and others that don't. A cedar fence could conceivably block the site triangle, but a see through fence doesn't.

Commissioner Highland questioned if they allow the fence could Public Works say it's illegal. City Planner Abboud said if they find a condition exists that it presents a hazard they can order it to be removed, as they could for anything blocking a site triangle.

Commissioner Stead that he doesn't necessarily find finding 4 credible. The fence may be in the site triangle, but the fence they are proposing is not going to limit the view. His other comment is an issue with Cranberry to Ocean Drive Loop site triangle not being defined leaves us open to a lot of complications and questions. He noted that an RV parked in the driveway could affect site distance, and questions why the other lot isn't cleared to improve the site triangle on Cranberry. He doesn't see where this goes, in any good place, for the City.

Commissioner Slone asked for clarification of the number of properties and if there is any intent to further development Ocean Drive Loop. City Planner Abboud said there are three or four developed properties and he is not aware of any intentions to finish constructing Ocean Drive Loop. He asked for clarification that the HCC 21.73.200 is most relevant here. City Planner Abboud said it is the part he wanted to bring attention to the group, depending what they consider an impediment to visibility.

SONNEBORN/HIGHLAND MOVED TO ADOPT STAFF REPORT PL 13-54 AND APPROVE THE CONDITIONAL USE PERMIT REQUEST FOR 744 OCEAN DRIVE LOOP WITH FINDINGS 3,5,6,8,9,10,11, AND 13, AND CONDITION 3.

Commissioner Sonneborn expressed the need to establish a clear reason for this and change recommendation 3 to state why this particular fence is necessary.

SONNEBORN/STEAD MOVED TO AMEND FINDING THREE TO "IT IS REASONABLY NECESSARY TO CONSTRUCT 6 FOOT FENCE FOR FULL USE AND ENJOYMENT TO KEEP MOOSE AND OTHER ANIMALS FROM THE PROPERTY BECAUSE THE PROPERTY IS USED AS AN URBAN FARM."

There was comment in opposition that being used as an urban farm isn't a significant public interest to modify the finding.

Point was raised that the findings are an explanation of why we made our decision. Someone may argue they want a fence to keep dogs from pooping on their lawn, which they may not think is a

HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
JULY 17, 2013

reasonable request, but to keep dogs from peeing on vegetables they are going sell to people seems reasonable.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

SONNEBORN/HIGHLAND MOVED TO AMEND FINDING SIX TO ADD "BECAUSE IT IS A CHAIN LINK FENCE" AT THE END.

This speaks to her earlier comment that using different materials for fences blocks or does not block the visibility and this does not. No matter where the visibility triangle is, since it is chain link it isn't going block it. She is trying to help clarify the reasons for supporting the conditional fence permit.

There were comments that this is an unnecessary amendment and there could be more appropriate to address this through another finding.

VOTE: YES: SONNEBORN  
NO: STEAD, HIGHLAND, VENUTI, SLONE

Motion failed.

SLONE/HIGHLAND MOVED TO ADD A FINDING THAT A CHAIN LINK FENCE IN ITS NORMAL CONFIGURATION DOES NOT MATERIALLY IMPEDE OR SIGNIFICANTLY COMPROMISE VISIBILITY.

Commissioner Slone commented further that it not be adorned or otherwise restricted by growth or vegetation. Point was raised that this concern is addressed in condition three.

Commissioner Stead commented that he doesn't think this is the right time to start defining fences that would pass with these code statements. He believes the discussion on record is sufficient to support this permit. He suggested they could defer this type of discussion to another time and clarify at that time what fences would be allowed.

VOTE: YES: HIGHLAND, SONNEBORN, SLONE  
NO: STEAD, VENUTI

Motion failed.

There was no further discussion on the main motion as amended.

VOTE: YES: SONNEBORN, STEAD, SLONE, HIGHLAND, VENUTI

Motion carried.

B. Staff Report PL 13-56, ROW Vacation 202 W. Pioneer Ave.

HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
JULY 17, 2013

City Planner Abboud reviewed the staff report.

Commissioner Stead and Venuti stated they each have a friendly relationship with the applicant but neither felt it would impede their judgment on the action before them tonight. The Commission didn't feel there was an issue of personal interest and continued on.

Karin Marks, applicant, commented that she agrees with the information in the staff report with exception of the of staff recommendation 1. As noted in the Public Works comments that a twenty foot easement would be the minimum, she requests that it be changed from 30 to 20 feet. She believes 20 feet is more than satisfactory because they have 30 feet on the other side of the property line, giving them 50 feet total. She agrees the City should have the ability to take care of their utilities, they said 20 is the minimum and she is willing to accept that.

Chair Venuti opened the public hearing. There were no comments and the hearing was closed.

There was discussion of the location of the 20 foot easement granted to HEA in relation to the utility easement being requested by Public Works because if they overlap it could affect the size of the city's easement. Mrs. Marks expressed her understanding that the HEA easement is next to the proposed City utility easement, and they don't overlap.

SONNEBORN/STEAD MOVED TO ADOPT STAFF REPORT PL 13-56 AND APPROVE A RIGHT OF WAY VACATION AT 202 E. PIONEER AVENUE WITH STAFF RECOMMENDATION AND FINDINGS.

SONNEBORN/STEAD MOVED TO AMEND FINDING THREE TO A 20 FOOT UTILITY EASEMENT SHALL BE RETAINED.

Chair Venuti asked if Public Works gave an explanation for wanting the 30 foot easement. City Planner Abboud said no.

There was discussion that the recommendation will be changed as well.

HIGHLAND/SONNEBORN MOVED TO ADD TO THE MOTION, AND AMEND CONDITION ONE TO 20 FOOT UTILITY EASEMENT.

There was brief discussion to clarify the earlier concern about the HEA amendment.

VOTE: (Secondary Amendment): YES: SLONE, STEAD, VENUTI, HIGHLAND, SONNEBORN

Motion carried.

There was no further discussion on the primary amendment as amended.

VOTE: (Primary Amendment): VOTE: VENUTI, SLONE, SONNEBORN, STEAD, HIGHLAND

Motion carried.

There was no further discussion on the main motion as amended.

HOMER ADVISORY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
JULY 17, 2013

VOTE: (Main motion): YES: SONNEBORN, VENUTI, HIGHLAND, SLONE, STEAD

Motion carried.

Chair Venuti called for a break at 8:07 p.m. The meeting resumed at 8:10 p.m.

C. Staff Report PL 13-55, Spit Flood Insurance Rate Maps (FIRM) and amend Floodplain Code

City Planner Abboud reviewed the staff report.

Chair Venuti opened the public hearing.

Donna Rae Faulkner commented that she thinks this is good news as it helps to lower insurance rates. She asked if it helps for disaster assistance. City Planner Abboud explained that this is an important step in being eligible to receive funds should a disaster occur.

There were no further comments and the hearing was closed.

SLONE/HIGHLAND MOVED FOR THE APPROVAL OF STAFF REPORT 13-55 WITH STAFF FINDINGS.

There was brief discussion about moving this to Council.

VOTE: YES: HIGHLAND, SONNEBORN, STEAD, VENUTI, SLONE

Motion carried.

HIGHLAND/SLONE VOTE: MOVED TO RECOMMEND THIS BE FORWARDED TO CITY COUNCIL FOR ADOPTION.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

D. Staff Report PL 13-53, Technical Revisions to Title 21

City Planner Abboud reviewed the staff report.

Chair Venuti opened the public hearing. There were no comments and the hearing was closed.

HIGHLAND/SLONE MOVED TO ADOPT STAFF REPORT PL 13-53, APPROVED THE DRAFT ORDINANCE OF TECHNICAL REVISIONS TO TITLE 21, AND RECOMMEND ADOPTION BY CITY COUNCIL.

There was discussion clarifying that the information in the memos from staff and the attorney is back up information and is incorporated in the draft ordinance.

The Commission also briefly discussed the change to 21.20.040(e)(3) and it being stricken because it is irrelevant as addressed by the City Attorney. There is already code to address it and this portion can be removed.

VOTE: YES: SONNEBORN, STEAD, SLONE, HIGHLAND, VENUTI

Motion carried.

## **Plat Consideration**

### **Pending Business**

A. Staff Report PL 13-57, Transitional Residential Zone R-2 July 17, 2013

City Planner Abboud commented that at they agreed to put Transitional Residential Zone R-2 on their work list for future review, and continue to explore options for the siting of multifamily housing.

B. Staff Report PL 13-58, Capital Improvement Plan Recommendations

City Planner Abboud read the Commission's list they discussed at the worksession.

1. Water Storage/Distribution Improvements
2. Homer Intersection Improvements
3. Barge Moorage Project
4. Main Street Reconstruction/Intersection
5. Karen Hornaday Park Improvements

SLONE/STEAD MOVED TO APPROVE THE LIST AS DESCRIBED BY THE CITY PLANNER.

Commissioner Slone wanted to clarify that with Main Street their focus is on the portion north of Pioneer Avenue. City Planner Abboud said he would include their comments that the area needs pedestrian improvements.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

## **New Business**

### **Informational Materials**

- A. Shanks, Alyssa. "Homer, More Than a Fishing Town" *Alaska Economic Trends*. 33.6 (June 2013): 12-15. Print
- B. City Manager's Report from June 24, 2013 City Council Meeting
- C. Letter and Memorandum for Reappointment of Jennifer Sonneborn
- D. KPB Planning Commission Notices

**Comments of the Audience**

Members of the audience may address the Commission on any subject. (3 minute time limit)

**Comments of Staff**

City Planner Abboud thanked the Commission for their work tonight. He said that he is getting married, and won't be back until the second meeting in August.

**Comments of the Commission**

Commissioner Stead appreciated meeting, but he thinks they need to be a little more focused. He isn't sure if there is interest in talking about fences at a future meeting, but it might be helpful for the future.

Commissioner Sonneborn thanked everyone for their support; she is excited to be on for another round.

Commissioner Slone said it was productive and that he will probably miss the next meeting, but he expects to be here for all other meetings. He said he would hold off on his helicopter CUP comments until the 30 day appeal period is over. He explained that he has some professional knowledge and was disappointed that he was excluded because he thought would bring some valuable information to the table. He thought a group site visit would have said a lot in this instance and in the future this would be something to be more attuned to and get ahead of it earlier to arrange noticed site visits.

City Planner Abboud noted that the Decision and Findings have been distributed regarding the CUP.

Commissioner Highland shad she is glad to have Commissioner Sonneborn back.

Chair Venuti said he is glad Commissioner Sonneborn re-upped and he thanked everyone.

**Adjourn**

There being no further business to come before the Commission, the meeting adjourned at p.m. The next regular meeting is scheduled for August 7, 2013 at 6:30 p.m. in the City Hall Cowles Council Chambers.

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MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: \_\_\_\_\_